

AMENDED IN SENATE AUGUST 23, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1759**

**Introduced by ~~Committee on Elections and Redistricting (Umberg~~  
~~(Chair), Klehs, Leno, and Levine)~~ Assembly Member Klehs**  
**(Coauthors: Assembly Members Koretz and Pavley)**  
**(Coauthors: Senators Romero and Torlakson)**

March 15, 2005

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An act to ~~amend Sections 11320 and 11325 of~~ add Section 12000.5 to the Elections Code, relating to ~~recall elections~~ elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1759, as amended, ~~Committee on Elections and Redistricting~~ Klehs. Elections: ~~recall elections~~ statewide special elections: Governor.

*Existing provisions of the California Constitution authorize the Governor to call a statewide special election for one or more initiative measures that have qualified for the ballot.*

*This bill would specify that the Governor may, by proclamation, rescind a call for a statewide special election any time prior to the date of that election. The bill would state the finding of the Legislature that this provision is declaratory of the existing authority of the Governor under the California Constitution.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~Existing law requires the ballot at a recall election to contain language asking the voters whether the officer who is the subject of the recall should be recalled from his or her office. Existing law requires that along with the sample ballot for a recall election a~~

~~statement of the reasons for the recall and the answer to the statement of the reasons for the recall be mailed.~~

~~This bill would require that if the officer who is the subject of the recall resigns between the time that recall petitions are filed and the last date for nominations of candidates to succeed the recalled officer, the question of whether the officer should be recalled to be replaced by the following statement: “The officer subject to the recall election has resigned. This election is being held to fill the vacancy.” This bill would provide that in the event that the officer subject to the recall resigns, the statement of reasons for the recall and the answer thereto do not need to be mailed to voters. By imposing additional duties on local elections officials, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ no.~~

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 12000.5 is added to the Elections Code,
- 2     to read:
- 3     12000.5. When, pursuant to subdivision (c) of Section 8 of
- 4     Article II of the California Constitution, the Governor has called
- 5     a statewide special election for one or more initiative measures,
- 6     the Governor may thereafter issue a proclamation rescinding the
- 7     call for that statewide special election at any time prior to the
- 8     date of that election.
- 9     SEC. 2. The Legislature finds and declares that this act is
- 10    declaratory of the existing authority of the Governor under
- 11    subdivision (c) of Section 8 of Article II of the California
- 12    Constitution.
- 13    SEC. 3. This act is an urgency statute necessary for the
- 14    immediate preservation of the public peace, health, or safety

1 *within the meaning of Article IV of the Constitution and shall go*  
2 *into immediate effect. The facts constituting the necessity are:*

3 *In order to clarify the authority of the Governor to rescind the*  
4 *call for a statewide special election, including the special*  
5 *election called for November 8, 2005, it is necessary that this act*  
6 *take effect immediately.*

7 ~~SECTION 1. Section 11320 of the Elections Code is~~  
8 ~~amended to read:~~

9 ~~11320. (a) Except as provided in subdivision (b), the~~  
10 ~~following shall appear on the ballots at every recall election,~~  
11 ~~except in the case of a landowner voting district, with respect to~~  
12 ~~each officer sought to be recalled:~~

13 ~~(1) The question "Shall [name of officer sought to be recalled]~~  
14 ~~be recalled (removed) from the office of [title of office]?"~~

15 ~~(2) To the right of the foregoing question, the words "Yes"~~  
16 ~~and "No" on separate lines with an enclosed voting space to the~~  
17 ~~right of each.~~

18 ~~(b) If the officeholder who is the subject of a recall resigns~~  
19 ~~between the time the recall petition is certified pursuant to~~  
20 ~~subdivision (h) of Section 11225 and the last date for nomination~~  
21 ~~of candidates to succeed the recalled officer pursuant to Section~~  
22 ~~11381, then the language set forth in subdivision (a) shall be~~  
23 ~~substituted by the following language:~~

24 ~~"The officer who was the subject of this recall election has~~  
25 ~~resigned. This election is being held to fill the vacancy."~~

26 ~~SEC. 2. Section 11325 of the Elections Code is amended to~~  
27 ~~read:~~

28 ~~11325. (a) Except for a recall election held pursuant to~~  
29 ~~subdivision (b) of Section 11320, with the sample ballot there~~  
30 ~~shall be mailed for each officer whose recall is sought, a printed~~  
31 ~~copy of the following:~~

32 ~~(1) The statement of reasons for recall that appeared on the~~  
33 ~~notice of intent to recall that was filed by the proponents of the~~  
34 ~~recall with the elections official, or in the case of a state officer,~~  
35 ~~with the Secretary of State.~~

36 ~~(2) The answer to the statement of reasons for recall that was~~  
37 ~~filed by the officer whose recall is sought with the elections~~  
38 ~~official or, in the case of a state officer, with the Secretary of~~  
39 ~~State, if any answer was filed.~~

~~(b) The printed copies of the statement and the answer to that statement shall be mailed with the sample ballot either in a document separate from the sample ballot or in the same document in which the sample ballot appears. Both the statement and answer shall be printed on the same page, or on facing pages of the document, and shall be of equal prominence.~~

~~(c) If the recall of more than one officer is sought, the statement and answer for each officer shall be printed together and shall be clearly distinguished from those of any other officer.~~

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

CORRECTIONS:  
Digest — Vote Key.